

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-13 are pending in the present application, Claims 1, 12, and 13 having been amended. Support for the amendment to Claims 1, 12, and 13 is found, for example, in the specification at pages 32-42. Applicants respectfully submit that no new matter is added.

In the outstanding Office Action, Claims 1, 2, 5, and 7-13 were rejected under 35 U.S.C. §103(a) as unpatentable over Wheeler et al. (U.S. Patent Publication No. 2002/0026575, hereinafter Wheeler) in view of Craft et al. (U.S. Patent Publication No. 2002/0150243, hereinafter Craft); Claims 3 and 4 were rejected under 35 U.S.C. §103(a) as unpatentable over Wheeler in view of Craft, and further in view of Anderson et al. (U.S. Patent Publication No. 2004/0139018, hereinafter Anderson); and Claim 6 was rejected under 35 U.S.C. §103(a) as unpatentable over Wheeler in view of Craft, and further in view of Dwork (U.S. Patent No. 5,539,826, hereinafter Dwork).

With respect to the rejection of Claim 1 as unpatentable over Wheeler in view of Craft, Applicants respectfully traverse the rejection. Claim 1 recites, *inter alia*, “acquiring means for acquiring a value entity accompanied by a public key corresponding to a private key, the value entity usable as a charge in electronic procurement.” The outstanding Office Action relies on Wheeler to disclose this element of Claim 1.

The outstanding Office Action takes the position that the account number in Wheeler equates to the claimed “value entity.” Assuming, *arguendo*, that this is correct, the PDA of Wheeler does not acquire the account number in such a way that the PDA equates to the claimed “communication terminal.”

Wheeler discloses that the account number is received by the PDA by a user inputting the numbers through a key pad, or is displayed on the PDA in a menu in response to

communications received from a brokerage firm.<sup>1</sup> However, neither of these methods through which the PDA acquires the account number has the account number accompanied by a public key. Claim 1 specifically states "...a value entity accompanied by a public key...." The account number in Wheeler is not transmitted along with a public key.

Furthermore, Wheeler discloses that the PDA securely protects the private key. However, Wheeler does not disclose how the private key is obtained by the PDA. As part of a login into the brokerage firm, the private key is used to provide a digital signature, and is sent along with the account number. The brokerage firm, which stores the public, uses the public key to authenticate the user that sent the account number. Nowhere in the system disclosed in Wheeler is there a communication terminal that acquires a value entity accompanied by a public key.

For example, paragraph [0197] of Wheeler discloses the public key information 1118. However, this is stored at the broker 1012, and not the PDA 1050 (*see* Fig. 10 of Wheeler and the database). Even if it is assumed that the PDA acquires the account number from the broker, there is no disclosure that a public key is sent with the account number.

Claim 1 also recites "receiving means for receiving an application electronically signed by the private key, through an ad hoc network, the application for transmitting the value entity of an amount equivalent to a consideration of a commodity or service to a device external to the communication terminal when purchasing the commodity or service." The outstanding Office Action relies on Wheeler to disclose the claimed "receiving means."

The outstanding Office Action takes the position that Wheeler discloses an application used on the PDA to access account information that is received from the brokerage firm. The Office Action cites to paragraphs [0195]-[0203].<sup>2</sup>

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<sup>1</sup> Wheeler, paragraph [0211] and paragraph [0200].

<sup>2</sup> Office Action, page 3.

Paragraph [0200] of Wheeler discloses that a menu of options may be downloaded from the brokerage firm. However, Claim 1 specifically recites that the application is signed by the private key. Wheeler discloses that only the PDA has the private key (i.e., PDA 1050 securely protects therein a private key).<sup>3</sup> The brokerage firm does not have the private key, and cannot sign the application with the private key. Thus, the PDA in Wheeler does not receive an application signed by the private key. Wheeler does not disclose or suggest receiving an application used for transferring the value entity and verifying the application by using the public key.

Furthermore, Applicants note that the outstanding Office Action only asserts that Wheeler discloses an application used on the PDA to access account information received from the brokerage firm. However, Claim 1 also recites “transferring the value entity...by use of the application.” Wheeler discloses that the menu downloaded by the PDA from the brokerage firm is used for post-login transactions.<sup>4</sup>

However, the account number (which the PTO assumes is a value entity) is transmitted as part of the login. Specifically, Wheeler discloses “For initial login, the message is simply the relevant account number.”<sup>5</sup> Thus, the menu of options downloaded from the brokerage firm is used only for post-login transaction, and cannot be used to transmit the account number from the PDA to the brokerage firm. Thus, the menu of options downloaded by the PDA does not equate to the claimed “...transferring the value entity...by use of the application....”

Furthermore, Wheeler does not disclose the claimed “application for transmitting the value entity of an amount equivalent to a consideration of a commodity or service to a device external to the communication terminal when purchasing the commodity or service.”

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<sup>3</sup> Wheeler, paragraph [0195].

<sup>4</sup> Wheeler, paragraph [0200].

<sup>5</sup> Wheeler, paragraph [0200].

Furthermore, Craft does not cure the above-noted deficiencies in Wheeler, for at least the reasons stated in the amendment filed May 8, 2006.

Furthermore, Applicants note that it is well established that each word of every claim must be given weight. See MPEP § 2143.03 citing In re Wilson, 424 F.2d 1382, 1385, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970).

In addition, the required analysis of Claim 1 recited "means" and associated functions has not been performed. In this regard, the PTO reviewing court recently emphasized that conclusory findings that omit analysis as to "means" claim limitations are improper in Gechter v. Davidson 43 USPQ2d 1030, 1035 (Fed. Cir. 1997) as follows:

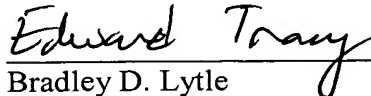
In addition, the [PTO] never construed the scope of the structures disclosed in the specification for the claimed "receiving means," nor did the [PTO] expressly find that the "receiving means" disclosed in the specification was structurally equivalent to that embodied in [the reference]. Moreover, the [PTO] also failed to define the exact function of the receiving means, as well as to find that [the reference] disclosed the identical function. [Emphasis added, citation omitted.]

In view of the above-noted distinctions, Applicants respectfully submit that amended Claim 1 (and Claims 2-11 dependent thereon) patentably distinguish over Wheeler and Craft, taken alone or in proper combination. In addition, Claims 12 and 13 are similar to Claim 1. Thus, Applicants respectfully submit that amended Claims 12 and 13 patentably distinguish over Wheeler and Craft, taken alone or in proper combination, for at least the reasons stated for amended Claim 1.

Consequently, in light of the above discussion and in view of the present amendment, the present application is believed to be in condition for allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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